

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

UNITED STATES OF AMERICA,

Plaintiff,

v.

JOHN HIGH,

Defendant.

ORDER

3:07-cr-00091-bbc

Defendant John High has filed objections to the report and recommendation entered by the United States Magistrate Judge on November 2, 2007. The magistrate judge recommended denying defendant's motion to suppress the firearm and ammunition seized from a residence at 6809 Schroeder Road in Madison on May 1, 2007. Defendant contends that the magistrate judge erred in finding that the police had probable cause when they went to the Schroeder Road apartment and that exigent circumstances justified their decision to stay in the apartment for five to six hours before a search warrant could be obtained.

Having read the recommendation, the transcript of the evidentiary hearing held before the magistrate judge and the parties' briefs, I am persuaded that the magistrate judge made the right call in an unusual factual situation. Angela Sims's information about

defendant, about his possible involvement in the murder of Greg Bray and the location of the firearm in his grandmother's apartment was probably sufficient to give the police probable cause to search the apartment (although it is not clear whether Sims had seen the firearm at the apartment recently enough to assure the officers that it was still where she believed it was). It was definitely enough to justify the officers' presence in the apartment pending preparation of the search warrant, given the officers' knowledge that once defendant knew that Sims had talked to the police, his first move would be to get rid of the firearm.

Defendant argues that once defendant was brought into the police station, the exigency dissipated, making it unreasonable for the officers to maintain their post at the apartment, but this is mere speculation. From the police perspective, it was just as possible that family members or friends were on notice that if defendant were arrested or under police suspicion, they were to move the firearm out of the apartment.

In summary, defendant has shown no reason the court should not adopt the magistrate judge's recommendation.

ORDER

IT IS ORDERED that the recommendation of the United States Magistrate Judge to deny defendant John High's motion to suppress the firearm and ammunition taken from his grandmother's apartment at 6809 Schroeder Road on May 1, 2007 is ADOPTED by the

court and defendant's motion to suppress is DENIED.

Entered this 16th day of November, 2007.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge